

Sutherland Consulting Group, Inc.  
2400 N. Lincoln Ave  
Altadena, CA 91001

January 30, 2014

Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

Re: **CC Docket No. 02-6**

**Request for Review** of Administrator's Decision of Appeal – Funding Year 2013-2014, Port of Los Angeles High School, 471 Application: # **924691** issued on December 20, 2013.

**Authorized person who can best discuss this Appeal with you**

Beverly Sutherland, Sutherland Consulting Group, Inc. (E-Rate Consultant Reg. # - 16060507)  
2400 N. Lincoln Avenue Altadena, CA 91001

**Email:** [bsutherland@edtechnologyfunds.com](mailto:bsutherland@edtechnologyfunds.com)

**Phone:** (626) 296-6284      **Fax:** (323) 908-9622

**Application Information**

Port of Los Angeles High School **Billed Entity #16071869**

FY2013-14 471 Application: # **924691**, **Funding Request Numbers:**

<b>FRN</b>	<b>Denied Request</b>	<b>Service Provider</b>	<b>SPIN</b>	<b>Original Funding Commitment</b>	<b>Reason for Request</b>
<b>ALL</b>	Increase Discount percentage to 80%	ALL		Current discount percentage is 50%	NSLP data was erroneously entered on #471
<b>2523855</b>	Increase funding request to \$2,922.60	AT&T Mobility	143025240	\$2,645	Incorrect bill was erroneously entered on #471
<b>2523884</b>	Increase funding request to \$52,628.40	Sprint	143006742	\$3,620	Incorrect bills and contract was erroneously entered on #471
<b>2523916</b>	Increase funding request to \$76,080	Time Warner Cable	143028901	\$4,281	Incorrect bills and contract was erroneously entered on #471

**Appeal of Funding Decision: 471 Application # 924691**

**APPLICANT: Port of Los Angeles High School - Billed Entity # 16071869**

## **Document Being Appealed**

Administrator's Decision of Appeal – Funding Year 2013-2014, Port of Los Angeles High School, 471 Application: # **924691** issued on December 20, 2013.

**Decision:** Denied

### **Explanation:**

- During the appeal review of your FCC Form 471 924691 you stated that you had wanted to make changes to the Form 471 submission for both the Discount Allowance and FRNs 2523855, 2523884, and 2523916. Program procedures allow applicants to amend their applications and correct ministerial and clerical errors on their FCC Forms until an Funding Commitment Decision Letter (FCDL) is issued. In your appeal, you did not demonstrate that USAC's determination was incorrect. Consequently, your appeal is denied.
- Your appeal requests additional funds that were not included in the FCC Form 471 that you are appealing. FCC rules require that funding requests must be submitted via an FCC Form 471. *See* 47 C.F.R. sec. 54.504(a). Considerations for funding requests depend on the date the FCC Form 471 is received and the amount of funds available if it is received after the close of the filing window. *See* 47 C.F.R. sec. 54.507(g)(1)(i)-(v). The FCC directed USAC to allow applicants to amend their forms to correct clerical and ministerial errors on their FCC Forms 470, FCC Form 471 applications, or associated documentation until an FCDL is issued. Such errors include only the kinds of errors that a typist might make when entering data from one list to another, such as mistyping a number, using the wrong name or phone number, failing to enter an item from the source list onto the application, or making an arithmetic error. *See* Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, FCC 11-60 para. 5 (rel. April 14, 2011). Additional correctable errors can be found in the FCC Order DA 10-2354. *See* Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools, Ann Arbor, Michigan, et al., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-542873, et al., CC Docket No. 02-6, Order, DA 10-354 para. 2 (rel. December 16, 2010).

## **Request for Review**

Port of Los Angeles High School requests that the FCC reverse the SLD's decision of December 20, 2013 and require that the SLD accept the corrected information that was erroneously entered into the Form 471#924691 for the FRNs and changes listed in the table above.

The school presented corrected information to the Program Integrity Assurance (PIA) reviewer during the 15-day review period however this information was not accepted as a result of changes to the to the USAC person assigned to original the PIA Review.

## **Mitigating Circumstances**

The Funding Commitment Decision Letter (FDCL) for Application #924691 was issued on 11/06/2013. The original review was sent on 10/21/13 (Attached) by Beth Pagella-Hyson with the responses due by 11/2/13. On 10/22/13, I called Ms. Pagella-Hyson to introduce myself as the new consultant for Port of Los Angeles High School and to discuss additional changes that were required to correct errors that occurred during the application submission process. Sal Cooper (Ms. Pagella-Hyson's Supervisor) answered her phone line and informed me that she no longer worked there. I inquired about who would be taking over for Ms. Pagella-Hyson so that I can send my LOA along with the changes needed. He told me that Jerzy Plewa would be taking over this PIA review and would send an email to the main contact for the school Mr. James Cross. Mr. Cooper also told me to include any changes in the response to Mr. Plewa. On 10/28/13, Mr. Plewa sent an email to Mr. Cross with the question from the original review and he also said that there was one other question (see attached letter and email). The new due date for the response was 11/12/13. When I checked the PIA review file, there were no new questions listed so I sent a follow-up email to Mr. Plewa asking about the additional question and including a copy of my LOA. He acknowledged my email and said that there were no additional questions from the original. Mr. Plewa may have been confused as I had not sent him a response only a question. I called Mr. Plewa on 10/29/13 & 10/30/13 to discuss the additional changes needed. I did not hear back from Jerzy Plewa until 10/30/13 and he told me to send the changes needed with the response to the original question. On 10/30/13, I sent the response to the original review with the supporting documentation (see attached). On 10/31/13, I received an email stating that the application was funded on 10/28/13 and no changes were entered because a response had been received on 10/28/13 by the old consultant, KEB Consulting, LLC (16073037), even though I had communicated that I was the new consultant. I was informed that any changes to this application would have to be addressed through the appeals process.

It appears that the PIA review team did not recognize me as the consultant on this application and accepted the response from the old consultant, KEB Consulting, LLC (16073037), contrary to the fact that I had communicated this change verbally to Mr. Cooper and through email to Mr. Plewa. The school was copied on the response from the old consultant however, FY2012-13 was their first year of participating in the E-Rate program and they were not aware of the significance of the response or the communications protocol that happens during a PIA review.

There was no waste, fraud, or abuse of the E-Rate program funds. This is simply a case where the ministerial errors did not get accepted through the normal review process. The School respectfully asks that the FCC to accept the changes to the discount percentages and funding amounts.

**Alaska Gateway, TOK, AK, et al:**

Applicants are often overwhelmed with the complex requirements of the E-Rate process. In its *Alaska Gateway* ruling issued September 6, 2006, the FCC took this type of situation into account when addressing issues with 486 filing deadlines, stating that:

As we recently noted in Bishop Perry Middle School, a departure from required filing deadlines may be warranted upon careful review of the Petitioner's case and when doing so will serve the public interest.<sup>29</sup> Generally, these applicants claim that staff mistakes or confusion, or circumstances beyond their control resulted in missing the FCC Form 486 deadline.<sup>30</sup> We note that the primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers, as opposed to staff dedicated to pursuing federal grants, especially in small school districts. Even when a school official becomes adept at the application process, unforeseen events or emergencies may delay filings in the event there is no other person proficient enough to complete the forms.<sup>31</sup> Furthermore, some of the errors were caused by third parties or unforeseen events and therefore were not the fault of the applicants.

The school respectfully contends that the FCC's recognition of the difficulties faced by applicants such as Port of Los Angeles ought to be applied to this particular situation. We ask that the FCC apply the conclusions drawn in the *Alaska Gateway* ruling and accept the changes to Form 471#924691

The School appreciates the Commission's consideration of this appeal. Please contact me directly should you have any questions on this matter.

Sincerely,



Beverly Sutherland  
Sutherland Consulting Group, Inc.  
E-Rate Consultant Registration # - 16060507  
[bsutherland@edtechnologyfunds.com](mailto:bsutherland@edtechnologyfunds.com)  
(626) 296-6284 (Office)

CC: James Cross

Attachments: Denial Letter, emails, LOA, PORT OF LOS ANGELES HIGH SCHOOL initial letter Application 924691, START 15 DAY.924691.10.18.2013, , START 15 DAY.924691.10.18.2013 RESPONSE